

REMARKS

The application has been reviewed in view of the Office Action mailed April 5, 2006. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

The specification has been amended to incorporate the priority claim in the specification as reflected in the Official Filing Receipt issued mailed November 19, 2001.

By this Amendment, independent claim 3 has been amended to incorporate the limitations of prior dependent claim 8. The added recitation directed to the extended surface of the shield relates to, e.g., the posts 135, which cause the legs 156a, 156b of the slider 156 to move inwardly away from the latch 150 upon movement of the shield, thereby releasing the latch 150 (see, e.g., discussion at page 14, lines 7-22 of Applicant's specification) to permit the latch to assume a reset position. Independent claim 22 has been amended to incorporate the language of prior dependent claims 31-33. Thus, no new issues are presented with respect to the amendments of independent claims 8 and 22.

Claims 2-10 and 22-42 stand rejected under 35 U.S.C. 102(b) by U.S. Patent No. 4,931,042 to Holmes et al. (hereinafter "Holmes '042"). It is respectfully submitted that the present invention is patentably distinguishable from Holmes '042. For example, with regard to independent claim 2, Holmes '042 fails to teach or suggest the recited "elongated shield including an extended surface... wherein upon axial movement of the shield, the extended surface of the shield biases the release member away from the latch to permit the latch to return to an original orientation"-the significance of this feature being discussed hereinabove. Holmes is devoid of this feature. Moreover, with Holmes '042, the lip 26a of the shield 26 directly engages the leaf spring member 44 (the latch as referenced in the Office Action) not the trigger

44 (the release member as referenced in the Office Action) to reactivate the blocking function of the leaf spring member 44 (see Holmes '042, col. 4, ln. 63- col. 5, ln. 8). As a result, the leaf spring member 44 is subjected to repetitive stress during use of the instrument, which may affect the overall durability and effectiveness of the latching function performed thereby. Moreover, the trigger 40 (the release member as referenced in the Office Action) operates independently of the shield 26 during the reset process.

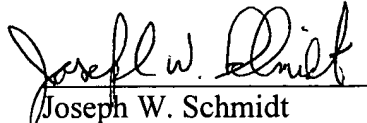
With regard to independent claim 22, Holmes '042 fails to teach or suggest the recited "latch member monolithically formed with the obturator housing... the latch member arranged within the obturator housing in cantilever relation therewith and being normally biased toward the initial position thereof". These features enable the latch member to utilize the natural resiliency of the material of fabrication of the obturator housing (whether it is metal or a polymeric material) to permit the latch member to pivot or flex about its fulcrum, i.e., functioning as a cantilever, in securing and releasing the guard. Moreover, by monolithically forming the support component, e.g., the housing, with an operational component, e.g., the latch member, Applicant has achieved a superior design which is extremely durable and effective, and realizes significant advantages over the prior art including Holmes '042. With respect to Holmes '042, the leaf spring member 44 is a separate component requiring an intricate system including a cavity 46 of the housing half 20, a shelf (no reference number) and a pin (no reference number) to mount the leaf spring member 44 within the housing half 20. Accordingly, the leaf spring member 44 may be subject to displacement or disassembly during transport or use. Moreover, by virtue of its independent status and intricate mechanism for mounting to the housing half 20, the leaf spring member 44 does not achieve the durability and effectiveness realized by Applicants' "monolithically formed" latch member.

Accordingly, in view of the foregoing, withdrawal of this rejection is respectfully submitted.

Claims 2-10 and 14-21 stand rejected under the judicially created doctrine of obviousness-type double patenting in view of Claims 1-9 of U.S. Patent No. 6,319,266. It is respectfully submitted that a terminal disclaimer will be filed if still required upon indication of the allowability of the claims.

In view of the foregoing amendments and remarks, it is respectfully submitted that none of the references of record, considered individually or in combination, in whole or in part, disclose or suggest the claimed subject matter. Therefore, all claims now pending in this application are believed to be in condition for allowance. Accordingly, early and favorable consideration of this application is respectfully requested. Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact Applicants' undersigned attorney at the telephone number indicated below.

Respectfully Submitted,


Joseph W. Schmidt
Reg. No. 36,920
Attorney for Applicants

CARTER DeLUCA, FARRELL & SCHMIDT, LLP
445 Broad Hollow Road
Suite 225
Melville, N.Y. 11747
Phone: (631) 501-5703
Fax: (631) 501-3526